

The 9th/14th January, 1974

No. 121-4Lab-74/1095.—In pursuance of the provisions of section 17 of the Industries Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s. Saraf Industries, Bahadurgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 179 of 1972

between

SHRI SADHURAM AND THE MANAGEMENT OF M/S SARAF INDUSTRIES,
BAHADURGARH

Present:—

Shri Rajinder Singh, for the workman.

Shri R. C. Sharma for the management.

AWARD

The following dispute between the management of M/s. Saraf Industries, Bahadurgarh, and its workman Shri Sadhu Ram was referred for adjudication to this court by order No. ID/RK/186-G-73/21544-548, dated 16th June, 1972, of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Sadhu Ram, was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties and according to the statements of their authorised representatives, there is now no dispute left between the parties as the workman concerned has received payment of the amount found due to him as per mutual calculations and he has further joined service in some other concern at Madras. The above plea raised on behalf of the management finds support in the application dated 18th August, 1973 Ex. MX addressed by the workman to this court and the facts stated above are admitted by his authorised representative Shri Rajinder Singh also.

In view of the above, a no dispute award is given holding that the workman concerned having settled his dispute with the management is not entitled to any other relief. In the circumstances, there shall be no order as to costs.

Dated 20th December, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2910, dated 24th December, 1973.

Forwrded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

The 9th/11th January, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

The 9th January, 1974

No. 123-4Lab-74/952.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s H. S. Easwer and Company C/o Auto Meters Ltd., Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 170 of 1972

Between

SHRI MANGE RAM AND THE MANAGEMENT OF M/S H. S. EASWER, AND COMPANY C/o
AUTO METERS LTD., MATHURA ROAD, FARIDABAD.

Present.—

Nemo,—for the workman.

Shri S. P. Sharma for the management.

AWARD

The following dispute between the management of M/s H. S. Enswer and Company C/o Auto Mesers Ltd., Mathura Road, Faridabad and its workman Shri Mange Ram was referred for adjudication, to this court,—vide order No. ID/FD/72/20099-103, dated 2nd June, 1972, of the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Mange Ram was justified and in order? If not, to what relief is he entitled?”

On receipt of the order of reference, usual notices were given to the parties. The management has pleaded settlement of the dispute on payment of Rs. 150 to the workman concerned,—vide voucher Exhibit M. W. 1/1 which is duly signed by him. The workman has not appeared in person or through his authorised representative Shri Hari Singh Yadav, Union Leader through whom the demand notice leading to the present reference was given. The notice sent to him under registered cover has been received back with the report that he has left the place without leaving further address and Shri Hari Singh Yadav, Union Leader care of whom the demand notice was given is also not coming forward to refute the above plea of the management regarding full and final settlement of the claim of the workman.

In view of the above, no further proceedings are called for in the case and the presumption is that the workman has really settled his dispute with management as stated above. A no dispute award is accordingly made but without any order as to costs.

O. P. SHARMA

Dated 19th December, 1973

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2912, dated 24th December, 1973

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 11th January, 1974

No. 123-4Lab-74/954.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and management of M/s. National Tube Industries, Chawla Colony, Ballabgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 103 of 1972

Between

SHRI RAM DULARE, AND THE MANAGEMENT OF M/S NATIONAL TUBE
INDUSTRIES CHAWLA COLONY, BALLABGARH

Present :

Shri Roshan Lal, for the workman.
Nemo, for the management.

AWARD

Shri Ram Dulare was in the service of M/s. National Tube Industries, Chawla Colony, Ballabgarh. The management terminated his services with effect from 6th November, 1971. Feeling aggrieved, he raised a demand for reinstatement but there was no satisfactory response from the management. This gave rise to an industrial dispute. Conciliation proceedings were initiated which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the above dispute was referred for adjudication to this court in exercise of powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/FD/745-A-71/17247-51, dated 17th March, 1972, with the following term of reference.

Whether termination of services of Shri Ram Dulare, was justified and in order? If not, to what relief is he entitled?

Usual notices were given to to parties. The notice issued to the management for several dates of hearing fixed in the case have been received back with the report that the factory has since been closed. The authorised representative of the workman concerned is also not in a position to give the where abouts of the management so that service of the notice of the order of reference could duly be effected. On the other hand, he has made a statement that he does not want to proceed with the dispute for the present but reserves his right to raise a fresh dispute if and when the where abouts of the management are known.

In view of the above, the reference can not proceed and shall stand rejected on account of the withdrawal of the dispute on behalf of the workman concerned. He may raise a fresh dispute if and when advised. In the circumstances, there shall be no order as to costs.

Dated the 20th December, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2911, dated 24th December, 1973.

Forwarded in (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

The 11th/14th January, 1974

No. 124-4Lab.-74/1100.—In pursuance of the provisions of section 17 of the Industries Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Haryana Roadways, Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 118 of 1972

between

SHRI RATTAN SINGH AND THE MANAGEMENT OF HARYANA ROADWAYS, ROHTAK

Present :

Shri C. B. Kaushik, for the workman.

Shri Suresh Chander, for the management.

AWARD

Shri Rattan Singh, son of Shri Bharat Singh concerned workman joined service as a Driver with the Haryana Roadways, Rohtak with effect from 23rd January, 1969,—*vide* order dated 22nd January, 1969 of the General Manager, Haryana Roadways, Rohtak copy Ex. M.1 on record. A perusal whereof would show that his appointment was on purely temporary basis and his services were liable to be terminated at any time without any prior notice. The management terminated his services,—*vide* order No. 1161/BCD, dated 13th May, 1969 of the General Manager, Haryana Roadways, Rohtak, copy Ex. M.2 on record, which reads as under :—

“Service of Shri Rattan Singh Driver No. 230, son of Shri Bharat Singh, village and post office Simli post office Mayana, district Rohtak are no longer required beyond 14th May, 1969 after noon.”

Feeling aggrieved by this order Shri Rattan Singh raised a demand for reinstatement and payment of back wages which was not conceded by the management. This gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court,—*vide* order No. ID/RK/86-A-72/11524—27, dated 4th April, 1972, in exercise

of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference :—

“Whether the termination of services of Shri Rattan Singh was justified and in order ? If not, to what relief is he entitled.”

The parties were called upon to put in their respective written statements. The workman concerned did not file any statement of claim and relied upon the demand notice dated 6th December, 1971 which forms part of the present reference. The management, on the other hand, has taken the stand that the appointment of this workman was purely on a temporary basis and his services could be terminated at any time without any prior notice and further that the impugned order being a termination order simpliciter without attaching any stigma to him and having been passed fully in consonance with the terms of his appointment he has no case what ever to question the validity of the order. On the above, pleadings of the parties my learned predecessor framed the following issue in the case :—

(1) Whether the termination of services of Shri Rattan Singh was justified because :—

(i) He was serving in a purely temporary capacity ;

(ii) His services were no longer required beyond 14th May, 1969.

Shri Suresh Chander Legal Assistant of the management has tendered into evidence a copy of the appointment letter Ex. M.1 and a copy of the termination order Ex. M. 2 relating to the workman concerned. The workman Shri Rattan Singh has himself come into the witness-box and produced a copy of the order, dated 24th April, 1969 of the General Manager, Haryana Roadways, Rohtak Ex. W.1 calling upon him to show-cause why a sum of Rs 3,000 should not be recovered from him on account of the damage caused to Bus No. HRR-13 given by him on 15th March, 1969.

Arguments have been addressed on both sides and I have given a careful consideration to the facts on record and the contentions raised by the learned representatives of the parties. As already pointed out, the main argument advanced on behalf of the management is that the termination order in question was not passed by way of punishment nor does it attach any stigma to the workman concerned. Since his services were no longer required by the management the same were terminated in terms of the very order of his appointment. The contention finds full support in the recent judgement dated 14th December, 1972 of Hon'ble the High Court for the States of Punjab and Haryana at Chandigarh in Civil Writ No. 107 of 1970 Smt. Malti, Heera, Auxiliary Nurse Midwife versus the State of Punjab and others reported as 1973 (1) D.L.R. page 769 wherein Hon'ble Mr. Justice S. S. Sandhawalia has been pleased to observe as under :—

“A wholly innocuous order terminating the services of an entirely temporary employee cannot be or at least should not be labelled as a penal one. At the very highest the unsatisfactory record of the employee's service may be a motive for passing the order of termination. Where an absolute right to terminate the services of an employee exists without assigning any cause and it is so done in an innocuous order, the normal presumption must be that the authority exercising its right of termination is aware of its power under the contract or the rules. When acting in consonance with the terms of employment, it terminates the services without imposing any penal consequences, then it is evident that the intent is not to punish. Indeed if it were so, the action of dismissal or a penal order of discharge casting an evil eye on the future employment of the discharged public servant would be the result. Therefore, when the termination is in consonance with the terms of appointment and is in unexceptionable form, then no element of punishment may be impliedly thrust into or read into such an order. Unless there is conclusive proof to the contrary that the order was deliberately camouflaged the only reasonable inference is that the authority being aware of its rights to terminate has exercised that light simpliciter. The satisfactory nature of the employee's services may well be the motive for the termination of the same. This fact however, would not make the order of termination as one by way of punishment.”

On the other hand, the learned representative of the workman concerned has vehemently argued that even if the order of removal from service is disguised as an order of termination simpliciter the motive in behind passing such an order was in fact to punish the workman. It assumes the nature of a punitive order and if no adequate opportunity of being heard is given to the workman concerned by giving him a proper charge-sheet and chance to lead his own defence, such an order can never be justified. There can manifestly be no dispute with the principle of natural justice enunciated by the learned representative of the workman. Nothing of the sort has, however, been established in the case. The workman was not given any charge-sheet nor was any enquiry held against him. I have been referred to a copy of the order dated 24th April, 1969 Ex. W.1 on record, a perusal of which would show that this workman was called upon to show-cause why a recovery of Rs 3,000 should not be made from him on account of the damage allegedly caused to Bus No. HRR-13 on 15th March, 1969. There is nothing on the record to show that he had submitted any explanation to the above order and according to his own statement no proceedings for the recovery of the amount were started against him. At any rate, on the facts brought on record, the impugned order can not be any stretch of imagination be held to be a punitive order in the absence of cogent and convincing evidence to the contrary, and that being so, the management was perfectly justified in passing

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this order, which is fully in-consonance the terms of his very appointment,—*vide* order dated 22nd January, 1969 copy Ex. M-1. The learned representative of the workman has not been able to satisfy me to the contrary.

For the reasons aforesaid, the issue involved in the case is decided against the workman and in favour of the management and it is held that he is not entitled to any relief by way of reinstatement and payment of back wages. The award is made accordingly. In the circumstances, there shall be no order as to costs.

Dated the 21st December, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2913, dated 24th December, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana
Rohtak.

S. N. BHANOT,
Commissioner for Labour and Employment
and Secretary to Government, Haryana.

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